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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,209	01/30/2004	Frank Yan Ho Chang	15848ROUS2U	7575
34645	7590	11/29/2006	EXAMINER	
JOHN C. GORECKI, ESQ. P.O BOX 553 CARLISLE, MA 01741			PASCAL, LESLIE C	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/769,209

Applicant(s)

CHANG ET AL.

Examiner

Leslie Pascal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

See MPEP 2173.05(b) section E. The use of the word "type" is indefinite in the claims. Further, in claim 3, it is unclear what is meant by defining a service set. It is unclear how the "steps" of the claim s "define an optical broadband service". Since it is unclear how the broadband service is provided, it is unclear how it can be provisioned or what is meant by this. In claim 9, it is unclear how the basic service building block definition module defines basic service building blocks. What provides this function? In claim 11, it is unclear what is meant by "enabling service components to be defined on the network". Or what is meant by providing service sets built from the basic service building blocks.

3. Claims 9-10 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9-10 and 13 are "single means" claims. See 218 USPQ 195 In re Hyatt U.S. Court of Appeals Federal Circuit No. 83-551 Decided June 6, 1983 708 F2d 712. claim 13 only has a service attribute module and claim 13 only has a processor.

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4. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: there is no connection between the steps. Each of the "defining " steps does not relate to the previous, or next step.

5. Claims 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are:

Claims 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: there are no connections of the means of claim 9 to the means of claim 11-12. It is unclear how this operates without the cooperative relationship..

6. Claims 1-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not clearly teach how the method is provided or how the means works. For example, in claim 13, which has just a processor, is this just an algorithm in the processor that provides the ideas? .

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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8. Claims 1-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims do not provide a USEFUL result. The claims do not provide a "useful, tangible, concrete result". The method of claims 1-7 and means plus function language of claims 8-13, do not provide a useful result - but appear to be drawn to an abstract idea. It does not appear to be a tangible result - which is a "real world result". It is not concrete. The claims seem to be manipulating an abstract idea. Further, "defining" does not "reduce or transform to a different thing or article".

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall et al (2003/0093485).

see paragraph 93 of Dougall et al. He teaches defining a service "type" attribute of a channel ("name or identifier of a service channel 401-1, a description of the service channel"). In regard to the interface, see paragraph 30. he teaches that teach node has an interface. In paragraph 93 he teaches defining the bandwidth and defining transport system (indicates which controllers 350, 360 and/or 370 can be assigned to transmitting information on this service channel). It is obvious that by indicating which node that the channel will travel to, he is 'defining " an interface since it is going to travel

through the node and obviously the interface of the node. In regard to claim 2, "type" of technology is vague and indefinite. It would appear that this could read on "internet technology", WAN or LAN (which would also read on claims 3-4. in regard to claim 5, see paragraph 94. The rate would obviously be indicated with the protocol. In regard to claim 6, it would have been obvious to have asymmetrical interfaces if different rates were used on different channels for example, if video and voice are sent there are different rates as taught by Dougall et al. Further, the applicant teaches that the interfaces can be symmetrical or asymmetrical. In regard to claim 7 and 10, it is well known to set protection for channels in case there is a fault or break in a line. it would have been obvious to use protection in order to avoid loss of communications. In regard to signal reach, in a system with different networks connected to each other, it is well known to define how far a channel can go based on the optical reach.


11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See figure 9 of Chang et al with regard to optical reach and design. See paragraph 99 of Smith. He teaches that optical reach can vary from channel to channel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Pascal whose telephone number is 571-272-3032. The examiner can normally be reached on Monday- Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571-272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Leslie Pascal
Primary Examiner
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